

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

**JENNIFER MIZELL, MARIA
PAULDING, KATHLEEN PEAPPLES,
VICTORIA ROSS, and NATHAN
SIMPSON, individually and on behalf of
those similarly situated,**

Plaintiffs,

v.

**THE UNIVERSITY OF PITTSBURGH
MEDICAL CENTER,**

Defendant.

Civil Action No. 1:24-cv-00016-SPB

Electronically Filed

Oral Argument Requested

**DEFENDANT'S MOTION TO DISMISS UNDER
FEDERAL RULE OF CIVIL PROCEDURE 12(b)(6)**

Defendant UPMC moves the Court to dismiss Plaintiffs' Amended Complaint pursuant to Federal Rule of Civil Procedure 12(b)(6). In support of this motion, UPMC incorporates by reference the brief contemporaneously filed herewith. A Proposed Order is attached, and UPMC respectfully requests the opportunity to present oral argument.

Dated: July 22, 2024

Respectfully submitted,

David C. Kiernan (admitted pro hac vice)
JONES DAY
555 California St., 26th Fl.
San Francisco, CA 94104
Telephone: 415.626.3939
Fax: 415.875.5700
dkiernan@jonesday.com

Peter Schwingler (admitted pro hac vice)
JONES DAY
90 South Seventh Street, Suite 4950
Minneapolis, MN 55402
Telephone: 612.217.8866
Fax: 844.345.3178
pschwingler@jonesday.com

/s/ Rebekah B. Kcehowski
Rebekah B. Kcehowski (PA ID No. 90219)
Anderson T. Bailey (PA ID No. 206485)
JONES DAY
500 Grant Street, Suite 4500
Pittsburgh, PA 15219
Telephone: 412.391.3939
Fax: 412.394.7959
rbkcehowski@jonesday.com
atbailey@jonesday.com

Counsel for Defendant UPMC

CERTIFICATE OF COMPLIANCE

Pursuant to Chambers' Practices and Procedures § II.B.1, I hereby certify that Defendant has made good-faith efforts to confer with the Plaintiffs to determine whether the identified pleading deficiencies properly may be cured by amendment. Those efforts include discussions prior to amendment of the initial Complaint and subsequent communications identifying the bases for Defendant's motion. No further discussion of the issues was warranted prior to filing.

/s/ Rebekah B. Kcehowski
Rebekah B. Kcehowski
(PA ID No. 90219)
JONES DAY
500 Grant Street, Suite 4500
Pittsburgh, PA 15219
Telephone: 412.391.3939
Fax: 412.394.7959
rbkcehowski@jonesday.com

CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of July, 2024, a true and correct copy of Defendant's Motion to Dismiss Under Federal Rule Of Civil Procedure 12(b)(6) was filed and served on counsel of record via the United States District Court for the Western District of Pennsylvania's CM/ECF system.

/s/ Rebekah B. Kcehowski

Rebekah B. Kcehowski

(PA ID No. 90219)

JONES DAY

500 Grant Street, Suite 4500

Pittsburgh, PA 15219

Telephone: 412.391.3939

Fax: 412.394.7959

rbkcehowski@jonesday.com

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

**JENNIFER MIZELL, MARIA
PAULDING, KATHLEEN PEAPPLES,
VICTORIA ROSS, and NATHAN
SIMPSON, individually and on behalf of
those similarly situated,**

Plaintiffs,

v.

**THE UNIVERSITY OF PITTSBURGH
MEDICAL CENTER,**

Defendant.

Civil Action No. 1:24-cv-00016-SPB

[PROPOSED] ORDER GRANTING DEFENDANT'S MOTION TO DISMISS

This matter is before the Court on Defendant UPMC's Motion to Dismiss Under Federal Rule of Civil Procedure 12(b)(6) (the "Motion"). The Court, having considered all papers filed, hereby ORDERS that the Motion is GRANTED and the Amended Complaint (ECF No. 31) is hereby DISMISSED with prejudice. The Clerk shall mark this matter closed.

IT IS SO ORDERED.

Susan Paradise Baxter
United States District Judge

Dated: _____